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6  
7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
9

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13  
14 Henry M. Hunter,

15 Defendant.  
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) No. CR CR-07-00750-CW

) DEFENDANT'S SENTENCING  
) MEMORANDUM  
)  
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17 Mr. Hunter failed to arrive at the halfway house to serve the final 26 days of his 10 month  
18 prison sentence, after which he was to have no more supervision. The guidelines for such an offense,  
19 given Mr. Hunter's criminal history category are 15-18 months prison followed by three years of  
20 supervision (OL 7/CH Cat VI). The defense does not object to these calculations but respectfully  
21 requests that Mr. Hunter be sentenced to one year and one day jail followed by 6 months of inpatient  
22 drug treatment as a condition of supervision. This is more than enough sanction, given all of the  
23 circumstances and goals of punishment.  
24

25 Mr. Hunter was furloughed to a halfway house on July 11, 2007. PSR ¶ 8. His projected  
26 release date was August 6, 2007. Transfer Order, attached as Exhibit A. Mr. Hunter simply relapsed

1 on drugs and failed to get on the Greyhound Bus bound for Cornell Corrections in Oakland. PSR ¶  
2 13. He was arrested about two months after he failed to appear, when police responded to a verbal  
3 altercation with no physical violence reported, between Mr. Hunter and his significant other. PSR ¶  
4 9. Mr. Hunter was to have no supervision after completion of his 10 months sentence. PSR ¶ 7. Mr.  
5 Hunter wants drug treatment. He is participating in DEUCE classes in jail now, and he wants to be  
6 released to an inpatient drug treatment center. PSR ¶ 65.

8 Had Mr. Hunter failed to report to a halfway house, based on a relapse, while under supervision  
9 of the Probation Office instead of while on furlough from the Bureau of Prisons, his guideline range  
10 would have been 8-14 months prison, given a Criminal History Category VI and a Grade C violation.  
11 U.S.S.G. § 7B1.4(a). While the guidelines have tried to take into account the mitigated situation of  
12 halfway house walk-away's by reducing the offense level by 4 points in such situations, U.S.S.G. §  
13 2P1.1(b)(3), they have not done so perfectly. It is difficult to find a meaningful distinction between  
14 walking away from, or failing to report to, the halfway house while on early release from the BOP  
15 and doing so while on Supervised Release under the Probation Office. It is true that for many  
16 crimes, the violation sentence is less than that carried by the new criminal conduct itself. Going out  
17 of one's way to commit a new crime while on supervision clearly subjects one to a large criminal  
18 penalty, as well as a smaller penalty for committing a crime while on supervision. Failing to report  
19 to a halfway house, however, is very much a violation of administrative rules, and there should not  
20 be any difference in penalty depending on which branch of supervision is charged with the  
21 defendant's care. Mr. Hunter is requesting a prison sentence equivalent to the mid-range for a  
22 supervised release violation based on the conduct of failing to report to a halfway house.  
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1 In sum, a sentence of 12 months and one day prison, followed by 6 months of residential drug  
2 treatment, for relapsing and failing to report to a halfway house to serve less than a month there, is  
3 appropriate and no greater than necessary to achieve the goals of sentencing.  
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6 Dated: March 3, 2008

Respectfully submitted,

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8 BARRY J. PORTMAN  
Federal Public Defender

9 /S/  
10 JOHN PAUL REICHMUTH  
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